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OFFICE OF PETITIONS

In re Patent No.7,759,400	:	
Kohara	:	DECISION FOR REQUEST
Issue Date: July 20, 2010	:	FOR RECONSIDERATION
Application No. 10/584,372	:	OF PATENT TERM
Filed: July 20, 2010	:	ADJUSTMENT
Attorney Docket No. KUZ0031US.NP	:	

This is a decision on the "Application for Patent Term Adjustment Determination under 37 CFR 1.705(d)," filed September 17, 2010. Patentees requests recalculation of the patent term adjustment and assert that it should be more than the currently accorded six hundred and seventy-five (675) days.

The request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

Patentee's are given TWO (2) MONTHS from the mail date of this decision to respond. No extension of time will be granted under 37 CFR 1.136.

Patentee asserts that the period of "B" delay, or over three year delay, is properly calculated using the date of June 23, 2006, which patentee asserts is the day the national stage commenced under 35 U.S.C. 371(b).

Patentee's argument has been considered and is not persuasive. The national stage of commenced on July 7, 2006—which is the date that is thirty months from the priority date of January 7, 2004. See 35 U.S.C. 371(b). The "B" delay period is 275 days. In an international application, this period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). The priority date of this application is January 7, 2004. As the requirements for early commencement were not met, the national stage commenced in this application on January 7, 2006. Thus, "B" delay is 275 days, counting the number of days beginning on July 8, 2009, and ending on the day before the date the Request for Continued Examination was filed April 8, 2010. See 1.703(b).

In view thereof, no change will be made to the patent term adjustment of 675 days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under

35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office is in receipt of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Further correspondence with respect to this decision should be addressed as follows:

By Mail: Mail Stop Petition
 Commissioner for Patents
 PO Box 1450
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 ATTN: Office of Petitions

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Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

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